vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1189 OF 2005

Dilip G. Badlani ... Plaintiff

V/s.

Maharashtra State Financial Corporation ... Defendant

Dr.D.R. Talankar for Plaintiff
Mr.A.K. Bharthakur for Defendant N.1
Mr.J.B. Patel for Defendant No.3

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **NOVEMBER 22, 2005**

P.C.:

. By this Chamber Summons, Defendant No.1 seeks to amend its written statement which was filed on 3.4.2002. The Plaintiff had sought an amendment of the prayers in the plaint by seeking cancellation of the sale effected between Defendant Nos.1 and 3 in terms of deed of assignment dated 8.2.2001. The amended prayers also show that the plaintiff sought further prayers to restrain the Defendant No.1 i.e, the applicant in the Chamber Summons from effecting any further sale of the property of the plaintiff and for setting aside the sale pursuant to the deed of assignment dated 8.2.2001. This amendment was carried out pursuant to the orders of this

Court. Subsequently, the present Chamber Summons is being taken out for adding certain pleadings to the written statement. According to the defendants, the sale pursuant to the deed of assignment dated 8.2.2001 has been approved by the Debt Recovery Appellate Tribunal and the Division Bench of this Court. It is these facts which are required to be incorporated in the written statement. In my view, there is no harm in allowing such facts to be incorporated. No prejudice would be caused to the plaintiff.

2. Mr.Talankar, for the Plaintiff, submits that under Order 8 Rule 2 r/w Rule 9 all these facts could have been pleaded in the written statement when it was filed. No reasons have been stated as to why these facts could not have been incorporated earlier and therefore, the Chamber Summons need not be allowed. On going through the affidavit filed in support of the Chamber Summons and after hearing the parties, I find that the amendments sought in the written statement do not in any way set out any new defences. Defendant No.3 supports the Chamber Summons taken out by Defendant No.1. In the circumstances, the Chamber Summons is made absolute in terms of prayer clause (a). Amendments to be carried out within four weeks from today.